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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/662,056   | 09/12/2003  | Stephen Siaphanos    | R22.12-0036         | 8342             |
| 27367  | 7590        | 06/27/2005           | EXAMINER            |                  |
| WESTMAN CHAMPLIN & KELLY, P.A.<br>SUITE 1400 - INTERNATIONAL CENTRE<br>900 SECOND AVENUE SOUTH<br>MINNEAPOLIS, MN 55402-3319 |             |                      | RAEVIS, ROBERT R    |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2856                |                  |

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/662,056

Applicant(s)

STAPHANOS, STEPHEN

Examiner

Robert R. Raevis

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

The disclosure is objected to because of the following informalities: "208" (p. 10 , line 14) should read - - 210 - -.

Appropriate correction is required.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show elements 206,308,210,312,322,324 in Figure 1 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, what constitutes an "educator"?

As to claim 5, "the angle" lacks antecedent basis. Should this claim depend upon claim 4?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Critchley et al '388.

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Critchley et al teach (Figures 1,4) a system, including: analyzer 32; probe 1 that includes an eductor 17 coupleable to steam at the end of the probe; collector (element 2 just downstream of apertures 17) such that solvent emitted by the eductor is collected by the collector, the collector coupled to a separation device 27 where water (with corrosive agents exit via line 28, and sample exists to the analyzer 32). The eductor is at the far left of the probe in Figure 1, and thus is at the distal end. The eductor of Figures 1-3 is as much an eductor as that of Applicant's. The inlet steam, and the "CONDENSED STEAM" 28 (i.e. water) serve as solvent. The probe is cylindrical as seen in Figure 3. The probe is at an angle with respect to the vertical, and is even at a 120 degree angle.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Critchley et al '388 in view of Forrester.

Critchley appears to teach everything in claims 1-12, even placing the eductor at the distal end of the probe, but does not located the eductor outside of the probe.

As to claims 1-12, it would have been obvious to utilize Forrester's eductor 5/ collector 6 in place of Critchley's internally mounted eductor because Forrester teaches that an eductor and collector may be located in the material of interest to successfully extract a sample from a fluid line. Locating the eductor/collector within the fluid of interest results in the eductor/collector being outside of the left hand side of Critchley's probe, and thus at the distal end to even a greater extent than found in Critchley.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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McEvoy's probe (Figure 6) extends out of the cooled portion of the probe.

Navarre employs calibration gases.

Jarolic cools his probe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 7am to 4pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Raevis*

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